## REMARKS

In the Office Action, the Examiner has initially objected to the Abstract of the Disclosure as including a confusing phrase. By the present response, the Abstract has been amended to clarify the confusing phrase identified by the Examiner. In addition to the Abstract, the Examiner objected to the disclosure because on page 5, lines 2-3, the Examiner identified the same confusing phrase. By the present response, paragraph [0015] has been amended along the same lines to correct the informality identified by the Examiner.

In the Office Action, claims 3-5, 12 and 16-22 were objected to because of several informalities identified by the Examiner. By the present response, claims 3, 4, 12, 16 and 19 have been amended to address the informalities identified by the Examiner in the Office Action. Further, the applicant has taken action to correct the same informalities in other claims in the application to address the issue raised by the Examiner.

In the Office Action, claims 3-5, 11 and 18 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. Specifically, the Examiner objected to the term "may" in the patent claims. By the present response, the claims have been amended to remove the term "may" found objectionable by the Examiner. Based upon the claim amendments, the applicant is believed to have addressed the §112 issues raised by the Examiner in the outstanding Office Action.

In the Office Action, claims 1-6, 8-13, 15-20 and 22 were rejected under 35 USC §103(a) as being unpatentable over the Ehlers U.S. Patent No. 5,572,438 in view of the Humphries U.S. Patent No. 5,621,662. The remaining claims 7, 14 and 21 were rejected under §103(a) as being unpatentable over the combination of the Ehlers '438 and Humphries '662 patents in further view of the Gelvin U.S. Patent No. 6,859,831.

Reconsideration of the above claim rejections is respectfully requested in view of the above-identified claim amendments, as well as in view of the arguments for allowance presented below.

As amended, independent claim 1 is directed to a method of providing a program to a customer of an energy provider where the program is aimed at managing demand for the commodity. As used in claim 1 and throughout the specification of the present application, the term "program" refers to a business offer or proposition that is developed by the utility and presented as an optional "program" that users of the utilities commodity product can choose to participate in if they so desire. As described in the specification, the program offering describes terms and conditions for participating and if the user agrees to these rules, the utility will have the right to control a plurality of end use devices at the customer site that may be within the program by utilizing the associated control nodes coupled to the devices that are part of the program.

As defined by claim 1, the method allows the customer to selectively subscribe to the program and, when the customer subscribes to the program and the program is activated by the utility, the plurality of control nodes of the group reduce the amount of the commodity supplied to the plurality of devices to manage demand for the commodity. Thus, if the energy provider activates the program and the customer has selected to subscribe to the program, the amount of commodity supplied to the devices may be reduced by the control nodes to reduce the overall demand for the commodity seen by the utility.

As part of the steps of providing the program to the customer, the control nodes at the customer site are structured into a group that corresponds to the devices that form part of the management program. A gateway node is positioned to provide communication between the energy provider and the customer site such that the control nodes can receive an indication of the activation of the program from the energy provider.

In rejecting independent claim 1, the Examiner stated that the Ehlers '438 patent taught the step of defining a program that includes a subset of the plurality of devices at the customer site for which usage of the commodity may be managed by the energy provider activating the program. Upon review of the Ehlers '438 patent, which includes the same inventor (Ehlers) as the present application, the applicant believes the Examiner

has misinterpreted the meaning of the term "program" in the teaching of the Ehlers '438 reference. Specifically, the Ehlers '438 patent does not disclose the energy provider defining a commodity management program that will be available to their customers such that the customers can selectively decide to subscribe to the program. In the section of the Ehlers '438 reference relied upon by the Examiner, as well as the remaining portions of the Ehlers '438 patent, the reference teaches that components of the system include computer programs that allow the processors to operate and generate reports at the customer site. The Ehlers '438 reference does not teach or suggest defining an energy management program that includes a subset of the plurality of devices for which usage of the commodity be managed by the energy provider activating the program, as required by independent claim 1.

Further, claim 1 specifically states that the customer can selectively subscribe to the program such that when the customer subscribes to the program and the program is activated by the energy provider, the plurality of the control nodes of the group reduce the supply of commodity to the plurality of devices to manage demand for the commodity. Clearly, this feature of claim 1 is not shown or suggested by the Ehlers '438 reference.

In the portion of the Ehlers '438 reference cited by the Examiner, the reference teaches generating a report for the customer that allows the customer to schedule timed turn on/turn off events. However, the Ehlers '438 reference clearly does not teach allowing the customer to selectively subscribe to a program designed by the energy provider, as required by claim 1.

In rejecting claim 1, the Examiner recognized that although the Ehlers reference taught a series of control nodes, the Ehlers '438 reference did not teach structuring the plurality of control nodes into a group corresponding to the subset of the plurality of devices. For this feature, the Examiner relied upon the Humphries '662 reference to teach this limitation of claim 1.

The Humphries '662 reference teaches a method and apparatus for home automation that includes a home automation system having a number of sub-systems,

such as a security subsystem, a lighting control subsystem, and an environmental control subsystem. The system includes a controller that provides centralized control of the individual subsystems and an interface for connecting the controller to a network. In the Examiner's opinion, it would have been obvious to one of ordinary skill in the art to modify the Ehlers '438 reference to include the step of structuring the control nodes into a group corresponding to the subset of the plurality of devices, as required by independent claim 1.

The applicant hereby disagrees with such finding by the Examiner. As required by claim 1, a program is defined at the energy provider and the plurality of control nodes are structured into a group that corresponds to the subset of plurality of devices that are defined by the program. Nowhere in the Humphries '662 reference is it taught or suggested that the control nodes are structured based upon a program defined by the energy provider.

For at least the reasons set forth above, independent claim 1 is believed to be allowable over the combination of the Ehlers '438 reference with the Humphries '662 reference.

Claim 2-8 depend directly or indirectly from claim 1 and are thus believed to be allowable based upon the above arguments for allowance, as well as in view of the subject matter of each claim.

As required by claim 2, the method includes the step of defining a second program at the utility having a second subset of the plurality of devices and allowing the customers to selectively subscribe to the second program. Neither the Ehlers '438 or Humphries '662 reference teach defining two separate programs at the utility and allowing the customer to selectively subscribe to either the first or second program. For at least this reason, claim 2 is believed to be allowable over the combination of references cited by the Examiner.

Claim 3 requires at least one of the control nodes to belong to both the first and second groups. Once again, the Humphries '662 reference does not teach or suggest a control node that belongs to both the first and second groups, as required by claim 3.

Claim 4 requires that at least one of the control nodes moves between the first and second groups as a function of whether the first or second program is active. The Examiner stated that the Humphries '662 reference taught this feature of claim 4. However, the Humphries '662 reference only teaches a controller that communicates with all of the nodes in the subnet with a single transmission. The '662 reference does not teach that one of the control nodes can move between the first and second groups depending on whether the first or second program is active. In this manner, the control node can control the delivery of the commodity to the associated device depending upon whether the first or second program is active. This feature is not taught or suggested, nor rendered obvious b the Humphries '662 reference.

Independent claim 9, like claim 1 discussed above, has been amended to make it more clear that the user interface allows the customer to selectively subscribe to a program that is developed by an energy provider where the program is aimed at managing demand for the commodity. Further, claim 9 has been amended to indicate that when the customer subscribes to the program and the program is activated by the energy provider, the plurality of control nodes of the group reduce the amount of the commodity supplied to the plurality of devices to manage demand for the commodity.

As described above in the arguments for allowance of independent claim 1, neither the Humphries '662 reference nor the Ehlers '438 reference teach or suggest a program provided to the customer which the customer can selectively subscribe to. Instead, the Ehlers '438 reference simply teaches a computer program that allows customers to schedule turn-on/turn-off events and create a report based upon the operation of the system. The Ehlers '438 reference clearly does not teach or suggest the ability of a customer, through a user interface, to selectively subscribe to a program provided by the utility.

In addition, as discussed above in the arguments for allowance of claim 1, claim 9 has been amended to indicate that when the customer subscribes to the program and the program is activated by the energy provider, the plurality of control nodes of the group reduce the supply of commodity to the plurality of devices to manage demand for the commodity. Clearly, this feature of claim 9 is not shown or suggested by the Ehlers '438 reference. For at least these reasons, independent claim 9 is believed to be allowable over the combination of references cited by the Examiner.

Claims 10-15 depend directly or indirectly from claim 9 and are thus believed to be allowable based upon the above arguments for allowance, as well as in view of the subject matter of each claim.

Independent claim 16, like independent claim 9 described above, is directed to a system that includes a user interface for allowing the customer to selective subscribe to a program developed by an energy provider. Further, claim 16 has also been amended to indicate that when the customer subscribes to the program and the program is activated by the energy provider, the plurality of control nodes of the group reduce the amount of the commodity supplied to the plurality of devices to manage demand for the commodity. None of the references cited by the Examiner teach or suggest, nor render obvious, these limitations of independent claim 16. For at least these reasons, independent claim 16 is believed to be allowable over the combination of references cited by the Examiner.

Claims 17-22 depend directly or indirectly from claim 16 and are thus believed to be allowable based upon the above arguments for allowance, as well as in view of the subject matter of each claim.

Specifically, claim 17 introduces the additional limitation that a second program is defined for a second subset of the plurality of devices and the control nodes are structured into a second group corresponding to the second subset of the plurality of devices. As amended, claim 17 further indicates that the user interface allows the customer to selectively subscribe to the second program. Clearly, this feature is not taught or

suggested, nor rendered obvious, by the combination of references cited by the Examiner in the Office Action.

Claim 19, like claim 4 discussed previously, specifies that at least one of the control nodes moves between the first and second groups as a function of whether the first or second program is active. As discussed above in the arguments for allowance of claim 4, the combination of references cited by the Examiner do not teach or suggest this feature of claim 19.

**Conclusion**

Based upon the above arguments for allowance, as well as in view of the amendments made to the claims, claims 1-22 are now believed to be in condition for allowance and such action is respectfully requested. The Examiner is invited to contact the applicant's undersigned attorney with any questions or comments, or to otherwise facilitate prosecution of the present application.

Respectfully submitted,

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